



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

October 16, 2020

Eric Jantz
Staff Attorney
New Mexico Environmental Law Center
1405 Luisa Street, Suite 5
Santa Fe, NM 87505
ejantz@nmelc.org

Juan Reynosa
Deputy Director
Southwest Organizing Project
211 Tenth Street, S.W.
Albuquerque, New Mexico 87102
juan@swop.net

Re: Closure of ADR Mediation Process for EPA Complaint No. 13R-14-R6

Dear Mr. Jantz and Mr. Reynosa:

On October 7, 2020, the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) received notification through EPA's Conflict Prevention and Resolution Center that complainants and recipients participating in the Alternative Dispute Resolution (ADR) mediation process related to the above-referenced complaint, the New Mexico Environmental Law Center on behalf on the Southwest Organizing Project, the Albuquerque-Bernalillo County Air Quality Control Board and the City of Albuquerque's Environmental Health Department,¹ had not been able to reach unanimous agreement on a proposed settlement to resolve the issues of the complaint. In light of this information and consistent with our procedures, EPA has determined that the ADR process has concluded without resolution. Accordingly, the agency is resuming the investigation of the above-referenced complaint as of the date of this letter. The issues originally accepted for investigation are:

1. Whether the Albuquerque-Bernalillo County Air Quality Control Board's and/or the Albuquerque Air Quality Division's permitting process discriminates against minority

¹ Albuquerque's Air Quality Division identified in the issues accepted for investigation is a sub-component of the Albuquerque Environmental Health Department.

residents on the basis of race and/or national origin, in violation of Title VI of the Civil Rights Act and EPA's implementing regulations; and

2. Whether the Albuquerque-Bernalillo County Air Quality Control Board and/or the Albuquerque Air Quality Division discriminated against minority residents on the basis of race and/or national origin in violation of Title VI of the Civil Rights Act and EPA's implementing regulations by refusing to conduct a hearing on an ordinance to consider cumulative impacts in the permitting process.

Please note that EPA plans to reach out soon to recipients and complainants to discuss next steps, including the possibility of entering into an informal resolution agreement with recipients to resolve the complaint. EPA's nondiscrimination regulation provides that ECRCO shall attempt to resolve complaints informally whenever possible. *See* 40 C.F.R. § 7.120(d)(2). Accordingly, ECRCO will contact the recipients within 10 days of the date of this letter to provide information about ECRCO's complaint process, and to offer and discuss the informal resolution agreement process with the recipients as a potential path for resolution of the issues which ECRCO has accepted for investigation. If the recipients agree to engage in the informal resolution agreement process, ECRCO will suspend its complaint investigation. ECRCO, through internal accountability measures it has implemented, will ensure that the informal resolution process occurs promptly and without undue delay. In the event that the informal resolution agreement process fails to result in an Informal Resolution Agreement between ECRCO and the recipients, ECRCO will notify the recipients and the complainant that ECRCO has resumed its complaint investigation.

Also, we would like to remind you that no applicant, recipient or other person may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights regulations that we enforce. *See* 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with EPA.

If you have any questions about the investigation, please feel free to contact Mahri Monson, Case Manager in EPA's External Civil Rights Compliance Office, who can be reached at (202) 564-2657, or Mahri.Monson@epa.gov.

Sincerely,



Lilian S. Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel

Cc:

Angelia Talbert-Duarte
Associate General Counsel
Civil Rights & Finance Law Office

David Gray
Deputy Regional Administrator
Deputy Civil Rights Official
US EPA Region 6

James McGuire
Regional Counsel
US EPA Region 6